

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Enron Power Marketing, Inc. and Enron Energy Services Inc.	Docket No. EL03-180-026
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Enron Power Marketing, Inc. and Enron Energy Services Inc.	Docket No. EL03-154-020
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Portland General Electric Company.	Docket No. EL02-114-021
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Enron Power Marketing, Inc.	Docket No. EL02-115-025
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El Paso Electric Company, Enron Power Marketing, Inc. and Enron Capital and Trade Resources Corp.	Docket No. EL02-113-023
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ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued September 27, 2006)

1. On June 28, Enron,<sup>1</sup> the Attorney General of Montana (the Montana Attorney General), and the Commission's Trial Staff (collectively, the Settling Parties) filed a Joint

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<sup>1</sup> As set forth in the Settlement, Enron means the Enron Debtors and the Enron Non-Debtor Gas Entities. The Enron Debtors are Enron Corp.; Enron Power Marketing, Inc. (EPMI); Enron North America Corp. (formerly known as Enron Capital and Trade Resources Corp.); Enron Energy Marketing Corp.; Enron Energy Services Inc.; Enron Energy Services North America, Inc.; Enron Capital & Trade Resources International Corp.; Enron Energy Services, LLC; Enron Energy Services Operations, Inc.; Enron Natural Gas Marketing Corp.; and ENA Upstream Company, LLC. The Enron Non-Debtor Gas Entities are Enron Canada Corp.; Enron Compression Services Company; and Enron MW, L.L.C.

Offer of Settlement, an Explanatory Statement and a Settlement and Release of Claims Agreement (collectively, the Settlement). The Settlement was filed pursuant to Rule 602 of the Commission's Rules of Practice and Procedure,<sup>2</sup> and the Settling Parties have requested Commission approval by September 27, 2006.

2. The Settlement resolves, as between Enron and the Montana Attorney General, claims against Enron for refunds, disgorgement of profits and other remedies sought by the Montana Attorney General in these proceedings. These claims emanated from transactions and events in western energy markets, including markets of the California Independent System Operator Corporation (CAISO) and the California Power Exchange (CalPX), during the period from January 16, 1997 through June 25, 2003<sup>3</sup> (the Settlement Period) as they relate to Enron.

3. Under the Settlement, the Montana Attorney General will be given a \$300,000 portion of the Trial Staff's Claim in the Enron Bankruptcy, which will take the form of a Class 6 general unsecured claim. In addition, the Montana Attorney General will be given a Class 380 subordinated penalty claim against Enron Power Marketing in the amount of \$1 million.<sup>4</sup> The Settlement also contains a number of mutual releases and other non-monetary consideration.

4. The Settlement requires the approval of United States Bankruptcy Court for the Southern District of New York (the Enron Bankruptcy Court).<sup>5</sup> On July 25, 2006, the

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<sup>2</sup> 18 C.F.R. § 385.602 (2006).

<sup>3</sup> The Settlement Period is derived from the Commission's July 22, 2004 Order directing proceedings before an ALJ to review all evidence relevant to Enron's conduct that violated or may have violated Commission tariffs and to determine the appropriate remedy for such violations, including an examination of Enron's wholesale power sales in the Western Interconnect. *See* Joint Explanatory Statement at 4-5, *citing El Paso Elec. Co., Enron Power Mktg., Inc., and Enron Capital and Trade Resources Corp.*, 108 FERC ¶ 61,071.

<sup>4</sup> *See* sections 4.1.1 and 4.1.2 of the Settlement.

<sup>5</sup> Section 1.2 of the Settlement defines the "Bankruptcy Cases" collectively as cases commenced under Chapter 11 of the Bankruptcy Code, by the Enron Debtors and certain affiliates on or after December 2, 2001 in *In re Enron Corp. et al.*, Chapter 11 Case No. 01-16034 (AJG) Jointly Administered, pending before the Enron Bankruptcy Court.

Settling Parties filed a joint motion to lodge the July 13, 2006, order of the Bankruptcy Court approving the Settlement without condition.<sup>6</sup> On September 14, 2006, the Presiding ALJ issued a Certification of Uncontested Partial Settlement, finding that the Settlement is “fair and reasonable and in the public interest and is hereby certified for the Commission’s consideration.”<sup>7</sup> No initial comments or reply comments were filed with respect to this Settlement.

5. The Commission finds the Settlement to be fair and reasonable and in the public interest. Accordingly, the Commission approves the Settlement. Commission approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

6. This order terminates Docket Nos. EL03-180-026; EL03-154-020; EL02-114-021; EL02-115-025; and EL02-113-023.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary

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<sup>6</sup>Judge Arthur J. Gonzalez found that “the legal and factual bases set forth in the Motion [for approval of the Settlement] establish just cause for relief granted herein and that the Settlement Agreement is fair and reasonable. . . .” Enron Bankruptcy Court order approving the Settlement, at 2.

<sup>7</sup> *Enron Power Marketing, Inc., et al.*, 116 FERC ¶ 63,055 (2006).